

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

MELVIN LEE SINGLETARY

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:12cv294-HSO-RHW

KAREN LADNER RUHR

DEFENDANT

PROPOSED FINDINGS OF FACT AND RECOMMENDATIONS

This cause came before the Court for a duly noticed omnibus hearing scheduled for Wednesday, January 23, 2013 at 10:00 a.m. before United States Magistrate Judge Robert H. Walker in Courtroom 683 of the Dan M. Russell, Jr. Federal Building in Gulfport, Mississippi. The docket reflects, and the Court finds that on January 8, 2013, the Court's Deputy Clerk Sandra Ryan properly notified Plaintiff of the hearing by mailing notice [17] thereof to his address of record: Melvin Lee Singletary, P.O. Box 284, Coward, SC 29530, which is the free-world address the Plaintiff provided the Court [10] on November 1, 2012. Chad Williams, counsel for the Defendant, was present for the hearing. Plaintiff failed to appear.

At the Court's request, Ms. Ryan recited for the record the substance of two telephone calls she received in Chambers on January 22, 2013, from a caller who identified himself as Melvin Singletary. In the first call, at approximately 9:30 a.m., the caller stated he mailed a letter requesting a continuance of the hearing set for January 23, 2013. At Judge Walker's instruction, Ms. Ryan advised the caller that the Court does not address continuance requests via telephone, and Mr. Singletary was expected to be present for the January 23, 2013 hearing. In the second telephone call, received approximately an hour after the first, the caller requested to fax or email a letter to Judge Walker requesting a continuance. He was advised that letters requesting a continuance are not accepted through Judge Walker's Chambers, and that he was expected to be

present for the hearing on January 23, 2013. Neither Chambers nor the U.S. District Court Clerk's Office has received any communication by mail from Plaintiff

RECOMMENDATION

Based on the foregoing, the undersigned United States Magistrate Judge recommends that Plaintiff's cause of action be dismissed for failure to appear for the omnibus hearing.

NOTICE OF RIGHT TO APPEAL/OBJECT

Pursuant to Rule 72(a)(3), *Local Uniform Civil Rules of the United States District Courts for the Northern District of Mississippi and the Southern District of Mississippi* (Dec.1, 2011), after service of a copy of this Report and Recommendation, each party has fourteen (14) days to serve and file written objections to the Report and Recommendation. A party must file objections with the clerk of court and serve them upon the other parties and submit them to the assigned District Judge. Within seven (7) days of service of the objection, the opposing party must either serve and file a response or notify the District Judge that he does not intend to respond to the objection.

An objecting party must specifically identify the findings, conclusions, and recommendations to which he objects; the District Court need not consider frivolous, conclusive, or general objections. A party who fails to file written objections to the proposed findings, conclusions, and recommendations within fourteen (14) days of being served a copy shall be barred, except upon grounds of plain error, from attacking on appeal any proposed factual finding or legal conclusion accepted by the District Court to which he did not object. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

Signed, this the 23rd day of January, 2013.

/s/ Robert H. Walker
ROBERT H. WALKER
UNITED STATES MAGISTRATE JUDGE